IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 16407 of 2004

Between:

1 R.Prakash Singh, S/o R.Narsingbhan singh,
R/o H.No.7-129/2, Muskipet, Moosapet, Kukatpally Municipality,

Ranga Reddy District
2 Banala Venkatesh, S/o B.Nagaraj,
R/o H.No.17-85/1, Janathnagar, Moosapet, Kukatpally Municipality,

R.R.District
3 Chintala Maisaiah, S/o C.Nagaiah,
R/o H.No.12-7-115/1, Moosapet, Kukatpally Municipality, Ranga

Reddy District
4 Shamkura Srinivasa Rao, S/o S.Venkataiah,
R/o H.No.14-66, Janathnagar, Moosapet, Kukatpally Municipality,

Ranga Reddy District

..... PETITIONER(S)

AND

1. The Andhra Pradesh Pollution Control Board rep.by its Member

Secretary, II Floor, Huda Complex, Maitrivanam, S.R.Nagar,

Hyderabad
2 Kukatpally Municipality rep.by its Commissioner, Ranga Reddy

District

3 Associated Glass Industry Glaspac (Formerly Known as M/s

Hindustan Sanitary Ware and Industries Ltd.) rep by its Managing

Director, Glass Factory Road, Office at Motinagar,
Sanathnagar, Hyderabad, Ranga Reddy District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction preferably a Writ in the nature of Mandamus declaring the inaction of the 1st and 2nd respondents in preventing the 3rd respondent from expanding and increasing production at its Glass manufacturing unit in Motinagar, Sanathnagar, Kukatpally Municipality, Hyderabad, Ranga Reddy District, as arbitrary, illegal and in violation of Articles 14 and 21 of the Constitution of India and for a consequential direction to Respondents 1 and 2 to forthwith take action and prevent the 3rd respondent from increasing production at its Glass Manufacturing unit.

Counsel for the Petitioners: MR.Y.SUDHAKAR

Counsel for the Respondent No.1: MR.E.KALYANRAM, Senior Counsel for Mr.S.V.Bhatt, S.C for A.P. Pollution Control Board.

Counsel for the Respondent No.2: Mr.Polisetty Radhakrishna

Counsel for the Respondent No.3: Mr.Rajiv Nayyar Advocate for Mr.Vedula Venkataramana, Advocate.

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Four petitioners filed this petition making grievance that no action was being taken by respondents 1 and 2 to prevent the third respondent from expanding and increasing its production at its glass manufacturing unit at Moti Nagar, Sanath Nagar, Hyderabad. Consequently, they sought a direction to the respondents 1 and 2 to forthwith take action and prevent respondent No.3 from increasing production at the glass manufacturing unit.

Petition being in the nature of public interest that there was likelihood of respondent No.3 expanding its production and thereby likely to create environmental problem, notice was directed to be issued to the respondents to file their respective replies. Petitioners had in fact in the writ petition referred to the directions issued by the respondent No.1-Pollution Control Board to the third respondent dated 4th September, 2004 directing compliance of those directions failing which respondent Board had mentioned in the order that action will be taken against the third respondent in accordance with Section 33 (A) of the Water (Prevention and Control of Pollution) Amendment Act, 1988 and under Section 31 (A) of Air (Prevention and Control of Pollution) Amendment Act, 1987.

The first respondent has filed an affidavit mentioning the details of having issued directions in its order dated 4th September, 2004. It is stated that after filing of writ petition, again respondent Board inspected the industry of the third respondent and made some observations. Third respondent had applied for consent for modernization and expansion of the existing plant. Consent was given on 2nd July, 1998 to install two modernized furnaces to produce upto 300 tonnes glass bottles per day. It is stated that glass and fiber glass production fall in Red Category but the notification dated 27th January, 1994 issued by the Ministry of Environment and Forests does not apply to the third respondent industry since this industry is not included in Schedule I of the notification and since the industry of the third

respondent is located at Borabanda, Motinagar, the notification itself is not applicable to the industry. Lastly, the first respondent has said that the third respondent industry has taken air pollution control measures and respondent Board is periodically monitoring the industry and presently the A.A.Q results are within the permissible level. Almost to the similar effect is the affidavit filed by the third respondent which, in addition to opposing the writ petition on other grounds, has also questioned the very maintainability of the petition as Public Interest Litigation at the behest of the petitioners and also their bona fides to do so.

Though objection was taken as to the maintainability of the writ petition, we need not decide the same now more particularly when the third respondent's industry is amenable to the control of the Pollution Control Board in some respects and the first respondent Board says that periodic inspections will continue to be made to ensure that there is no violation of the provisions of law, Rules and Regulations by the third respondent. Learned counsel for the respondent No.3 states that as and when respondent No.3 would like to expand its production or would like to modernize its plan, same will be done after obtaining the requisite permission from the first respondent.

We take these statements on record and would close this writ petition since, as of today, there is neither any violation being committed by the third respondent nor there is any pollution.

The writ petition is disposed of accordingly.

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DEVINDER GUPTA, CJ

29-12-2004

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M.NARAYANA REDDY, J

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To

1. The Member Secretary, Andhra Pradesh Pollution Control Board

II Floor, Huda Complex, Maitrivanam, S.R.Nagar, Hyderabad
2 The Commissioner, Kukatpally Municipality, Ranga Reddy

District.

3 2 CD copies.